

**KENTUCKY PERSONNEL BOARD
MINUTES OF APRIL 17, 2015**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on April 17, 2015, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David F. Hutcheson, Jr., Member
Amanda Cloyd, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Cynthia Perkins, Administrative Specialist

Board Personnel Absent:

David B. Stevens, Member
Linda R. Morris, Administrative Section Supervisor

2. **READING OF THE MINUTES OF REGULAR MEETING HELD MARCH 13, 2015**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Hutcheson moved to approve the minutes, as submitted. Ms. Cloyd seconded and the motion carried 4-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek advised that Geoffrey Dunn, Governor's Office, is aware of the Board's vacancies.

Mr. Sipek stated that training provided by the Kentucky Association of Administrative Adjudicators (KAAA) is scheduled for Friday, May 8, 2015. Mr. Sipek stated that he, Mr. Crocker, and some of the hearing officers, plan to attend.

Mr. Sipek announced that Ms. Linda Morris, Administrative Section Supervisor, is retiring at the end of July 2015. Mr. Sipek stated that he would like to start the process to post Ms. Morris' position with the idea of having an overlap while she is here to assist with the transition. Mr. Sipek stated he has prepared a memorandum for the Chairman's signature.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

4. **PERSONNEL CABINET'S REPORT**

The Hon. Dinah Bevington, Executive Director, came forward to present the Personnel Cabinet's report.

Ms. Bevington stated that no written comments or requests for hearings were received on the amended regulations approved by the Board last month. Therefore, these regulations will be finalized within the next few months.

Ms. Bevington stated that the "Living Well Promise" health assessments are to be completed by May 1, 2015. She stated that only a few participants failed to complete their promise last year.

Ms. Bevington advised that the Governmental Services Center (GSC) at the Kentucky State University is the training and development office for state government. GSC is coming out with a new on-line training call Kentucky Enterprise Learning Management System (KELMS). KELMS is a centralized system where managers will be able to go online and see which employees had completed training and employees will be able to track their own progress as well. The majority of training will be completed by employees electronically. KELMS training begins May 4, 2015, and the system will go live June 1, 2015.

5. **ORAL ARGUMENTS**

- A. **~~Fredric Mark Farmer v. Finance and Administration Cabinet (2012-098)~~**
(Request by Appellee)
--Joint Motion to Continue Oral Argument

- B. **Daniel Grimes v. Justice and Public Safety Cabinet (Corrections) (2014-083)**

Present for oral arguments were counsel for Appellant, the Hon. Oliver Barber; and counsel for Appellee, the Hon. Stafford Easterling. After presenting oral arguments, the parties answered questions from the Board.

- C. **Thomas Mark Tarter v. Energy and Environment Cabinet (2014-194)**
(Request by Appellant)

Present for oral argument was counsel for Appellee, the Hon. Leesa Moorman. Having determined that counsel for Appellant, the Hon. Paul Harnice had not been notified. Counsel for Appellee agreed to a deferral.

D. Donald Williams v. Justice and Public Safety Cabinet (Corrections) (2014-199)
(Request by Appellee)

Present for oral arguments were the Appellant, Donald Williams, and counsel for Appellee, the Hon. Stafford Easterling. After presenting oral arguments, the parties answered questions from the Board.

6. MOTIONS

A. Crystal Brewer v. Department of Veterans' Affairs (2012-244)

--Appellant's Motion to File Late Exceptions

--Appellee's Response to Motion

Mr. Sipek stated that Appellant missed the deadline to file exceptions because she explained that her mail was received by relatives also located at the same address and she did not get her mail until the deadline had passed. Counsel for Appellee, the Hon. Dennis Shepherd, in his response stated he does not believe Appellant has given proper cause. Mr. Sipek advised that the statutes do not provide a remedy to file late exceptions and the motion should be denied, which is consistent with past motions to file late exceptions.

Mr. Gillis moved to deny Appellant's motion to file late exceptions. Mr. Hutcheson seconded and the motion carried 4-0.

7. CLOSED SESSION

Mr. Gillis moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Mr. Hutcheson seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 4-0. (10:20 a.m.)

Mr. Hutcheson moved to return to open session. Mr. Gillis seconded and the motion carried 4-0. (11:30 a.m.)

8. CASES TO BE DECIDED

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

- A. **~~Fredric Mark Farmer v. Finance and Administration Cabinet (2012-098)~~**
- Continued by agreement of the parties.

- B. **Daniel Grimes v. Justice and Public Safety Cabinet (Corrections) (2014-083)**

Ms. Cloyd, having noted Appellee's exceptions, Appellant's reply and oral arguments, (with clerical correction) moved to accept the recommended order sustaining the appeal to the extent therein. Mr. Hutcheson seconded and the motion carried 4-0.

- C. **Thomas Mark Tarter v. Energy and Environment Cabinet (2014-194)**
(Demotion, failure to follow drug policy – appeal dismissed)
--Appellant's Exceptions and Request for Oral Argument
--Appellee's Response to Exceptions

Mr. Hutcheson moved to defer this matter to the July Board meeting, at the request of the parties. Ms. Cloyd seconded and the motion carried 3-0, with Mr. Gillis recusing.

- D. **Donald Williams v. Justice and Public Safety Cabinet (Corrections) (2014-199)**

Mr. Gillis, having noted Appellee's exceptions and oral arguments, moved to accept the recommended order, with clerical correction, sustaining the appeal. Ms. Cloyd seconded and the motion carried 4-0.

- E. **Monique Anthony v. Justice and Public Safety Cabinet (Corrections)**
(2013-100)

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 4-0.

- F. **Crystal Brewer v. Department of Veterans' Affairs (2012-244)**

Mr. Gillis moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 4-0.

- G. **Cathy Gopaul and Curtis Sears v. Justice and Public Safety Cabinet**
(Corrections) (2012-262, 2014-054, 2014-055, 2013-271, 2014-080
and 2014-081)

Mr. Gillis moved to accept the recommended order, with clerical correction, dismissing the appeals. Ms. Cloyd seconded and the motion carried 4-0.

- H. **Harold Parks III v. Kentucky Board of Nursing (2014-103)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Ms. Cloyd seconded and the motion carried 4-0.

Show Cause Orders –Response Filed

I. Judith Lozier v. Transportation Cabinet (2015-001)

Mr. Hutcheson, having noted Appellant's response, moved to remand this matter to the active docket. Mr. Gillis seconded and the motion carried 4-0.

Show Cause Orders – No Response Filed – Appeals Dismissed

Mr. Gillis moved to find that the Appellants had not responded to the show cause order and that the recommended orders be accepted dismissing the appeals for failure to timely prosecute the appeals. Ms. Cloyd seconded and the motion carried 4-0.

- J. Don-Shay Jackson v. Cabinet for Health and Family Services
- K. Douglas Neal v. Justice and Public Safety Cabinet (Corrections)
- L. Michael Roebuck v. Justice and Public Safety Cabinet (Juvenile Justice)
- M. Shawn Young v. Cabinet for Health and Family Services

9. WITHDRAWALS

Mr. Hutcheson moved to accept the following withdrawal of appeals *en bloc* and dismiss the appeals. Mr. Gillis seconded and the motion carried 4-0.

- A. Rebecca Douglas v. Cabinet for Health and Family Services
- B. Kelvin Elliott v. Department of Education
- C. Junior R. Mondie v. Cabinet for Health and Family Services
- D. Jessica Oaks v. Department of Education
- E. John Carroll v. Justice and Public Safety Cabinet (Corrections)
- F. Corey Cole v. Justice and Public Safety Cabinet (Juvenile Justice)
- G. Donald Goodman v. Transportation Cabinet

10. SETTLEMENTS

Mr. Hutcheson moved to issue settlement orders for "A, B, C, D, E, G, H and I" and to sustain the appeals to the extent set forth in the settlements as submitted by the parties. Ms. Cloyd seconded and the motion carried 4-0.

- A. Kelli Bull v. Cabinet for Health and Family Services
- B. Chrissy Cunningham v. Finance and Administration Cabinet (mediated)
- C. Amber Gardner v. Justice and Public Safety Cabinet (Corrections)
- D. Robert B. Jones v. Cabinet for Health and Family Services
- E. James Parmley v. Justice and Public Safety Cabinet (Juvenile Justice)
- G. Mahogany Thompson v. Cabinet for Health and Family Services
- H. Elena Webb v. Department of Veterans Affairs
- I. Christopher Workman v. Cabinet for Health and Family Services

Mr. Hutcheson moved to issue a settlement order for "F" and to sustain the appeals to the extent set forth in the settlement as submitted by the parties. He further moved to add additional language that this settlement agreement shall not prevent Scott Parritt (Appellant) from testifying in any legal proceeding if subpoenaed or participating in any investigation involving the Finance and Administration Cabinet conducted by any properly authorized agency. Chairman Sapp seconded and the motion carried 2-0, with Mr. Gillis and Ms. Cloyd recusing.

F. Scott Parritt v. Finance and Administration Cabinet (2 appeals)

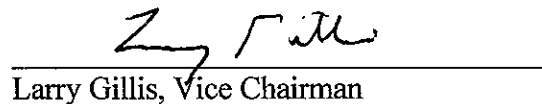
11. **OTHER**

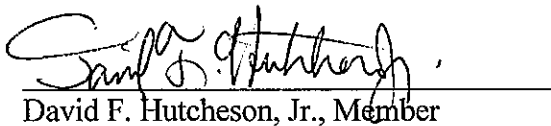
Kimberly Dickerson v. Cabinet for Health and Family Services
--Statement of Compliance

Mr. Sipek stated that the members were provided a copy of Appellee's Statement of Compliance. After a brief discussion, it was decided that no action would be taken by the Board.

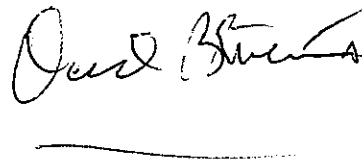
There being no further business, Mr. Gillis moved to adjourn. Mr. Hutcheson seconded and the motion carried 4-0. (11:35 a.m.)


Wayne D. Sapp, Chairman


Larry Gillis, Vice Chairman


David F. Hutcheson, Jr., Member


Amanda Cloyd, Member


David Bruck